

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

Application of	)	
	)	
	)	
<b>China Eastern Airlines Corporation Limited</b>	)	Docket DOT-OST-2022-0028
	)	
For an Emergency Exemption	)	
Pursuant to 49 U.S.C. § 40109	)	
	)	
	)	
In the matter of <b>Air China Limited et al.</b>	)	Docket DOT-OST-2020-0052
	)	

**APPLICATION OF CHINA EASTERN AIRLINES CORPORATION LIMITED  
FOR AN EMERGENCY EXEMPTION AND MOTION TO SHORTEN ANSWER  
PERIOD**

Communications with respect to the  
above should be addressed to:

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**DATED: June 27, 2022**

**NOTICE:** THIS APPLICATION IS FILED PURSUANT TO THE EMERGENCY EXEMPTION PROCEDURES OF 14 C.F.R. § 302.311, WHICH AUTHORIZES THE DEPARTMENT TO ACT ON EMERGENCY EXEMPTIONS IMMEDIATELY. ANY PERSON INTERESTED IN FILING AN ANSWER IS REQUESTED TO DO SO IN THE ABOVE DOCKET NO LATER THAN JUNE 30, 2022. COPIES OF THE SUBMISSION SHOULD BE SERVED ON THE PERSONS LISTED ABOVE AND ON THE ATTACHED SERVICE LIST.

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**APPLICATION OF CHINA EASTERN AIRLINES CORPORATION LIMITED  
FOR AN EMERGENCY EXEMPTION AND MOTION TO SHORTEN ANSWER  
PERIOD**

China Eastern Airlines Corporation Limited (“China Eastern”), a foreign air carrier of the People’s Republic of China, hereby applies, under the provisions of 49 U.S.C. § 40109 and Subpart C of the Department’s Rules of Practice in Proceedings (14 C.F.R. § 302.301, *et seq.*), for an emergency exemption to engage in scheduled foreign air transportation of persons, property, and mail between points not included in its existing economic authority with the Department. To the extent necessary, China Eastern respectfully requests that the Department waive the 30-day prior notice requirement of proposed combination schedules pursuant to 14 C.F.R. § 213 in effect for certain Chinese air carriers under the Department’s Order 2020-6-1, as amended.

Due to evolving coronavirus pandemic control measures in the Shanghai region, China Eastern has been instructed by the Civil Aviation Administration of China (“CAAC”) to divert Shanghai-bound passenger flights arriving from the U.S. to certain alternate airports in China.

Specifically, continuing in the second half of July 2022, China Eastern intends to adjust its existing twice-weekly westbound passenger flights from New York John F. Kennedy International Airport (JFK) to Shanghai Pudong (PVG) to instead operate from JFK to China's Fuzhou Changle International Airport (FOC), as described by the schedule table attached as **Exhibit A**.

In support of this application, China Eastern states as follows:

1. Authority Requested: China Eastern requests immediate emergency, temporary exemption authority to conduct scheduled foreign air transportation of persons, property, and mail from a point or points in China to any point or points in the U.S., to the extent of the flights described in **Exhibit A**.

2. China Eastern is a flag carrier of the People's Republic of China which has been regularly found by the Department to be qualified to provide foreign air transportation between the U.S. and China. China Eastern holds a foreign air carrier permit authorizing it to provide scheduled foreign air transportation of persons, property, and mail between the coterminal points of Beijing, Guangzhou and Shanghai, and the coterminal points of Chicago, Los Angeles, San Francisco, Honolulu or Seattle, as well as charter trips in foreign air transportation subject to the terms, conditions, and limitations of the Department's regulations governing charters.<sup>1</sup> China Eastern also holds the following exemptions<sup>2</sup> authorizing it to conduct scheduled foreign air transportation of persons, property and mail between points in China and points in the U.S. that are not included in its foreign air carrier permit:

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<sup>1</sup> DOT Order 92-11-7.

<sup>2</sup> DOT Notice of Action Taken, Docket DOT-OST-2016-0136 (Jul. 23, 2018) (renewing exemptions). China Eastern timely filed an application to renew its existing exemptions – except for an exemption to engage in scheduled foreign air transportation of persons, property and mail on a code-share only basis with Virgin America Inc. between points in the U.S. due to expiration of that arrangement – on July 10, 2019. China Eastern's renewal application invoked and relied upon the automatic extension provisions of the Administrative Procedure Act, 5 U.S.C. § 558(c), as implemented by 14 C.F.R. Part 377.

- Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between Chengdu, People’s Republic of China, and Los Angeles, California, via Nanjing, People’s Republic of China;
- Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between Kunming, People’s Republic of China, and San Francisco, California, via Qingdao, People’s Republic of China;
- Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between any point or points in the People’s Republic of China, on the one hand, and Chicago, Illinois, Honolulu, Hawaii, Los Angeles, California, New York, New York, Saipan, Commonwealth of the Northern Mariana Islands and San Francisco, California, on the other hand, with all flights operating via Shanghai and/or Beijing, People’s Republic of China;
- Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail, on a code-share only basis with Delta Air Lines, Inc. (Delta) and Delta Connection, between points in the United States and behind, intermediate, and beyond points in third countries; and
- Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of property and mail from a point or points in the People’s Republic of China to any point or points in the United States open to scheduled international service.<sup>3</sup>

3. The foregoing authority does not authorize scheduled passenger operations nonstop between the gateways of New York and Fuzhou, necessitating the instant application. However,

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<sup>3</sup> DOT Notice of Action Taken, Docket DOT-OST-2022-0007 (Mar. 3, 2022).

approval of this application is fully consistent with the Agreement between the Government of the United States of America and the People's Republic of China Relating to Civil Air Transport, signed September 17, 1980, as amended, which permits a designated Chinese airline to operate combination services between any point in China and any point in the U.S. open to international scheduled services. Approval of China Eastern's request would serve the public interest by ensuring the continuity of existing passenger operations between China and the U.S. Approval of the instant application is also consistent with recent Department precedent approving short-term temporary re-routing of China Eastern's passenger flights from the U.S. into China.<sup>4</sup>

4. Pursuant to 14 C.F.R. § 213 and the Department's Order 2020-6-1 as amended, Chinese air carriers are currently limited to providing eight weekly roundtrip combination flights in the U.S.-China market. China Eastern is currently permitted two weekly roundtrip operations.<sup>5</sup> In light of the fact that CAAC's instructions and China Eastern's resulting plan to divert flight MU 588 away from Shanghai have only just been confirmed, China Eastern respectfully requests that the Department waive the 30-day advance notice requirement for prospective schedule filing under Part 213, to any extent necessary.

5. China Eastern requests expeditious processing and the grant of this emergency, temporary exemption authority as soon as possible in light of plans just confirmed and the short time until adjusted operations are expected to begin. China Eastern will poll interested U.S. carriers and inform the Department of the results. DOT's Procedural Regulations provide that the Department can act on an emergency exemption application immediately pursuant to 14 C.F.R. § 302.311 and China Eastern respectfully requests that it do so here.

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<sup>4</sup> See DOT Approvals dated March 28, 2022, May 6, 2022, June 13, 2022, in Docket DOT-OST-2022-0028.

<sup>5</sup> See DOT Order 2020-8-6 at n.2, Docket DOT-OST-2020-0052-0052 (waiving prior notice requirements strictly to the extent necessary to permit the four Chinese carriers with existing passenger operations to file schedules with a second weekly roundtrip frequency).

6. China Eastern will accept the terms, limitations and conditions that the Department routinely attaches to exemption authority to engage in foreign air transportation. China Eastern's application raises no environmental or energy issues, and the grant of this exemption authority will not constitute a major regulatory action as defined in 14 C.F.R. Part 313.

WHEREFORE, China Eastern respectfully requests that the Department grant its application for emergency, temporary exemption authority to provide scheduled foreign air transportation as described above and grant such additional relief as the Department deems appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Evelyn D. Sahr', written over a horizontal line.

Evelyn D. Sahr  
Drew M. Derco  
Eric A. Felland

DATED: June 27, 2022

Counsel for  
China Eastern Airlines Corporation Limited

# **EXHIBIT A**

Status	Flight #	Aircraft	Route	Affected Dates (China Arrival)		Day of Week (China Arrival)					Departure	Dep. Time	Arr. Time	Arrival
<b>Original</b>	<b>MU588</b>	<b>773-MU</b>	<b>JFK-PVG</b>	<b>19/26-JUL</b>		<b>2</b>					<b>JFK</b>	<b>0425</b>	<b>1925</b>	<b>PVG</b>
<b>Adjusted to</b>	<b>MU588</b>	<b>773 MU</b>	<b>JFK-FOC</b>	<b>19/26-JUL</b>		<b>2</b>					<b>JFK</b>	<b>0425</b>	<b>2020</b>	<b>FOC</b>
<b>Original</b>	<b>MU588</b>	<b>773-MU</b>	<b>JFK-PVG</b>	<b>21/28-JUL</b>				<b>4</b>			<b>JFK</b>	<b>0425</b>	<b>1925</b>	<b>PVG</b>
<b>Adjusted to</b>	<b>MU588</b>	<b>773 MU</b>	<b>JFK-FOC</b>	<b>21/28-JUL</b>				<b>4</b>			<b>JFK</b>	<b>0600</b>	<b>2220</b>	<b>FOC</b>

*\*All dates and times above in Beijing Time*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for an Emergency Exemption and Motion to Shorten Answer Period was served by electronic mail this Monday, June 27, 2022 on the following:

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*Eric A. Felland*

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